

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2775 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

POLICE CONSTABLE KARMACHARI MANDAL AND ANR.

Versus

COMMANDANT AND OTHERS

Appearance:

MR YN OZA for Petitioners
MR KT DAVE, A.G.P. for Respondent No. 1
MR IS SUPEHIA for Respondent No. 4

CORAM : MR.JUSTICE D.A.MEHTA

Date of decision: 27/04/2001

ORAL JUDGEMENT

The petitioners are association of Constables and Head Constables of State Reserve Police Group-V. The petitioners have made common grievance with regard to seniority and promotion and sought directions of

restraining the respondents from deploying, sending or transferring the Constables and Head Constables from other S.R.P. Units to S.R.P. Group-V Unit.

2. When the matter was taken up for hearing, initially, the Court passed the following order by way of ad-interim relief on 03/06/1988 :

"Notice pending admission ad int. relief returnable on 16.6.1988. Meanwhile by way of ad-int. relief the seniority of the petitioners is protected and will not be affected by the posting of the employees of another unit to the unit in which the petitioners are serving. Direct service."

3. At the time of admission on 3rd December, 1990 it was directed that the ad-interim relief granted on 3rd June, 1988 to continue until the final disposal of this petition.

4. On behalf of the respondent, in the affidavit-in-reply, it is submitted that ordinarily a Constable of one S.R.P. Group is not transferred to another, and only in exceptional circumstances a Constable or Head Constable is transferred from one group to another. That any transfer as such is because of administrative reasons or administrative exigencies and not as a matter of course. It is further submitted that in exceptional circumstances as and when a Constable is transferred from one group to another, seniority of the Constable who is transferred is protected by placing his name in the seniority list at an appropriate place, in case of a Constable who is transferred upon his own request, his name is placed at the bottom of the seniority list in the group to which he transferred, but in a case where the transfer is for administrative purpose, seniority is protected and is placed in the seniority list below the person who is otherwise senior to him and above the person who is otherwise junior to him. It is further submitted that no Constable of a group to which another Constable has been transferred is adversely affected in these circumstances.

5. Alongwith the affidavit-in-reply on behalf of the respondent, Circular dated 21st September, 1981 and 10th March, 1972 have been placed on record.

6. Having gone through the material on record as well as taking into consideration the contentions of both the sides, we find that this is a case where the Court

should not intervene. In Armed Forces, if the transfer of an individual is for administrative exigency Court should be reluctant interfere unless it is shown from material on record that the same is in gross violation of the policy laid down and by way of colourable exercise of the powers. In the present case nothing has been pointed out to us. In fact the petition is of a general nature seeking a permanent direction to restrain the respondents from effecting any transfer at all. It is not possible to accept such a plea.

This petition is accordingly rejected. Rule is discharged with no order as to costs.

(D.A. Mehta, J)
'Bhavesh'